



Motion was made by Baloga, seconded by Abrams, and all voting aye, to adopt a resolution referring the public hearing for a New Off-Sale Intoxicating Liquor license for Total Wine & More to the Office of Administrative Hearings. (R-2014-72)

**3.3 Housing Improvement Area Policy Approval**

Requested Action: Approve the Housing Improvement Area Policy.

Motion was made by Baloga, seconded by Oleson, and all voting aye, to approve the Housing Improvement Area Policy as presented.

**3.4 South Loop Settlement of Easement Acquisition Approval**

Requested Action: Approve the easement acquisition settlement for Parcel 14 (8101 28<sup>th</sup> Avenue South) for Project 2011-702 Lindau Lane Extension for a not-to-exceed amount of 1,793,800.00.

Motion was made by Baloga, seconded by Oleson, and all voting aye, to approve the easement acquisition settlement for Parcel 14 as listed above.

**3.5 Meeting Minutes City Council-Approval**

Requested Action: Approve the April 14, 2014, City Council Study meeting minutes as presented.

Motion was made by Baloga, seconded by Oleson, and all voting aye, to approve the April 14, 2014, Study meeting minutes as presented.

**3.6 Metropolitan Airport Commission and Police Chaplains Memo of Understanding**

Requested Action: Approve the Memorandum of Understanding between the City of Bloomington and the Metropolitan Airport Commission securing the services of the Bloomington Police Chaplains to assist people during a fatality/disaster event taking place at the Minneapolis-St. Paul International Airport.

Motion was made by Baloga, seconded by Oleson, and all voting aye, to approve the Memorandum of Understanding between the City and the Metropolitan Airports Commission as described above.

**4 PUBLIC COMMENT PERIOD**

The Mayor declared the public comment period open for those wishing to address the Council on matters other than items included on the agenda.

Speaker #1: Dale Graham, 10034 Drew Circle

He wanted to make the City Council aware of the plight of the honey bee. He said both the print and electronic media have laid out the problems with bees. He asked the City Council to direct the Planning Division to look at the City's current ordinance with regard to bees. He said Minneapolis and Edina changed their ordinances to make it easier for residents to have a honey bee hive in their backyard. He said the Bloomington ordinance requires an acre of land in order to have one hive. He requested the Planning Commission investigate what the other cities are doing regarding bees so that Bloomington might amend its ordinance to allow residents to have a bee hive in their backyard.

Winstead said this subject came up a few years ago when the Council was discussing chickens. He asked Council members who would like to see this come forward to let the City Manager know so it can be discussed at a later date.

Speaker #2: Bob Swenson, 9636 4<sup>th</sup> Avenue South  
He talked to the Council about dead and dying trees. He's been a Bloomington resident since 1976. He said trees have a lifespan and reported there are a number of dead or dying trees in Bloomington. He said he talked to the City about this but there is no requirement in the city to take down a dead tree. The City considers dead trees the same as a 2x4 piece of wood. He said old trees eventually die and reported a dead branch hanging along 98<sup>th</sup> Street that he's waiting to fall into the street. He said a tree with some dead branches can be trimmed and possibly saved but remarked there are several Ash trees that are diseased. He commented on other rules in Bloomington such as not allowing a dead car to sit on a property or not letting the grass grow long. He said Bloomington will soon have a big problem with dead trees around the city and talked about the cost of removing them. He reported the smaller tree removal companies can and do offer removal at a reasonable cost. He suggested the City provide some financial assistance to people that can't afford to have it removed. He said the City could give homeowners a timeframe of nine months to take them down. He cautioned the Council this situation will not get better. He requested staff follow-up on his comments.

Winstead said if this is something the Council wants to have reviewed, they should let the City Manager know so it can come back for further discussion.

Speaker #3: Sally Ness, 8127 Oakland Avenue South  
She came to talk about 8201 Park Avenue South and its related traffic but first referenced a past City memo in which there was some discussion about a possible street connection in the vicinity of the Al Farooq Youth & Family Center (AFYFC) at 8201 Park Avenue to accommodate residential development. She said no residential was planned in that location. She commented parking is not allowed in City parks throughout the night. She talked about what is included in the current agreement with AFYFC regarding the lights in Smith Park. She said City parks close at 10 pm but Smith Park is allowed to stay open with a permit. She referenced several documents and a memo regarding park hours. She referenced some cases regarding RLUIPA. She said the City should not sign the Joint Use Agreement because it doesn't conform to City Code.

Speaker #4: Vi Rozek, 8214 Park Avenue South  
She said she and Ms. Ness have talked about all of the traffic in their neighborhood over the last three years. She said a traffic study was done back in 2013 and the recorded numbers were alarming and yet the numbers and intensity at 8201 Park Avenue South continue to rise. She said a drive-by of the City Manager or a Council member one time doesn't give an accurate account of the amount of traffic in their neighborhood. She commented a traffic study with a 12-person task force was conducted for the Poplar Bridge neighborhood but said the Smith Park neighborhood was never given that opportunity before Dar Al Farooq went in at 8201 Park. She commented the City can't hide behind the religious laws. She said all groups must abide by Bloomington's laws. She said the Joint Use Agreement should not be signed until all of the questions are answered and a traffic study has been conducted.

Mayor Winstead closed the public comment period.

Winstead requested the Council get back to the City Manager about the different issues that were presented tonight. He said Council will be conducting a study meeting in a couple of months to talk about Conditional Use Permits, which will lead to the traffic issues at 8201 Park Avenue.

**5 LICENSING DIVISION:  
PUBLIC HEARING****5.1 Number One Massage  
New Therapeutic  
Massage Enterprise  
License Application**

Requested Action: Approve a New Therapeutic Massage Enterprise license, expiring August 31, 2015, for Number One Massage LLC, doing business as, Number One Massage located at 140 West 98<sup>th</sup> Street.

Junker explained this massage enterprise has been located at 818 West 98<sup>th</sup> Street since 2011. They are moving to a smaller space.

No public testimony was received.

Motion was made by Busse, seconded by Baloga, and all voting aye, to approve a New Therapeutic Massage Enterprise license for Number One Massage.

**5.2 Denny's Bloomington  
New On-Sale  
Intoxicating Liquor  
License Application**

Requested Action: Approve a New On-Sale Intoxicating Liquor license, expiring June 30, 2015, for MI5 Incorporated, doing business as, Denny's Bloomington at 815 East 78<sup>th</sup> Street.

No public testimony was received.

Motion was made by Abrams, seconded by Baloga, and all voting aye, to approve a New On-Sale Intoxicating Liquor license for Denny's.

**5.3 Red Lobster New On-  
Sale Intoxicating Liquor  
License Application**

Requested Action: Approve a New On-Sale Intoxicating Liquor license, expiring June 30, 2015, for Red Lobster Hospitality LLC, doing business as Red Lobster #249 at 1951 American Boulevard West.

No public testimony was received.

Motion was made by Baloga, seconded by Abrams, and all voting aye, to approve a New On-Sale Intoxicating Liquor license for Red Lobster.

**5.4 Hard Rock Cafe New  
On-Sale Intoxicating  
Liquor License  
Application**

Requested Action: Approve a New On-Sale Intoxicating Liquor license, expiring June 30, 2015, for Hard Rock International Inc., doing business as, Hard Rock Café at 5115 Center Court, Mall of America.

No public testimony was received.

Motion was made by Carlson, seconded by Baloga, and all voting aye, to approve a New On-Sale Intoxicating Liquor license for the Hard Rock Café.

**6 DEVELOPMENT  
BUSINESS: PUBLIC  
HEARINGS****6.1 Ugorets Properties;  
Conditional Use Permit;  
9712 Humboldt Ave  
CUP for Open Storage**

Requested Action: In Case 08085A-14, adopt a resolution approving a Conditional Use Permit for open storage at 9712 Humboldt Avenue South and 9713 Irving Avenue South subject to the conditions listed in the staff report.

Glen Markegard, Planning Manager presented the staff report. He showed an aerial photo of the properties that are located within an industrial area. He said the property at 9713 Irving has been used for open storage for many years and the dwelling at 9712 Humboldt has been removed. This is an entirely Code compliant application recommended for approval by staff and the Planning Commission.

No public testimony was received.

Motion was made by Baloga, seconded by Abrams, and all voting aye, to adopt a resolution approving a Conditional Use Permit at 9712 Humboldt Avenue South and 9713 Irving Avenue South. (R-2014-73)

**6.2 Robert Schoenborn  
(Chief's Towing);  
Variance and CUP;  
9604/9608 Humboldt**

Requested Action: Adopt a resolution approving a variance for a phased surfacing plan located at 9604 and 9608 Humboldt Avenue South, Case 10934A-14, subject to the conditions and Code requirements listed in the staff report. Adopt a resolution approving a Conditional Use Permit and approve Final Site and Building plans for open storage as a primary use at 9604 and 9608 Humboldt Avenue South, Case 10934BC-14, subject to the conditions and Code requirements listed in the staff report.

Markegard presented the staff report. He again showed an aerial photo of the properties located at 9604 & 9608 Humboldt Avenue. The northern lot has been non-conforming and has been used for open storage. The applicants propose to bring it into compliance and combine it with the lot to the south for open storage of motor vehicles, construction equipment, and other items. They will provide fencing. The stormwater pond will be above ground. He said the applicant is requesting a variance for a three-phase surfacing plan over six years. They plan to pave one-third of the property every two years. They plan to stage the construction. This will remove the non-conformities on the lot to the north. It is recommended for approval. One letter in opposition was received.

Baloga commented this property is primarily used for a towing service.

Markegard said the property belongs to Chief's Towing and they sublease some of it and store some of their own vehicles on it.

Baloga questioned if there were any restrictions on the time of day for when Chief's can tow vehicles onto this site.

Markegard replied no because it's in an industrial area.

Busse inquired if there were other cases whereby the City has allowed an applicant to come into compliance over a number of years.

Markegard said that has usually occurred with a Temporary Conditional Use Permit where a property has come into compliance over time. He said there have been other phased implementation approaches.

Abrams questioned what the drainage will look like initially and as the impervious surface gradually grows over a six-year period.

Markegard said the drainage pond will be designed for its eventual size. He said the Class V surface will still produce a fair amount of runoff.

Carlson inquired as to the screening and landscaping for this project.

Markegard said the City Code requires a certain number of trees and shrubs. The applicant, however, has yet to turn in a conceptual landscaping plan but they will be required to do so for the southerly lot. He said the fence setback is 20 feet so the landscaping will be situated on the outside of the fence. He said the stormwater pond may be dry for a period of time but will be difficult to store vehicles in due to its topography.

Oleson said he drove by both open storage sites and commented this area really needs some urban renewal. He questioned whether there are enough teeth in the conditions to prevent further deterioration of this site.

Bernhardson said this is a situation that has existed for 60 years. This proposal improves this site and there are plans for a fenced stormwater pond.

No public testimony was received.

Motion was made by Abrams, seconded by Oleson, and all voting aye, to adopt a resolution issuing a variance for a phased surfacing plan located at 9604 and 9608 Humboldt Avenue South, Case 1093A-14, subject to the conditions and Code requirements listed in the staff report. (R-2014-74)

Motion was made by Abrams, seconded by Busse, and all voting aye, to adopt a resolution approving a Conditional Use Permit and approve the Final Site and Building plans for open storage as a primary use at 9604 and 9608 Humboldt Avenue South, Case 10934BC-14, subject to the conditions and Code requirements listed in the staff report. (R-2014-75)

**6.3 Walser Buick; Amend  
Condition 4601  
American Boulevard W**

Requested Action: Approve a modification to Condition of Approval #9 in Case 9841A-98 as stated in the staff report.

Markegard presented the staff report. He showed an aerial of the Walser Buick site located between France Avenue and Normandale Boulevard. He explained in 1998, the City approved this dealership as Peterson Pontiac. One of the conditions limited the parking lot light poles to 20 feet in height to lessen the impact on neighboring residential. Now this applicant wants to change them to LED lights. They will retain the 20-foot lighting standard on the southerly section to lessen the impact on the residential located to the south but desire to change the standards to 26 feet on the rest of the property. He said this item did not go before the Planning Commission but staff recommends approval. He said no correspondence was received.

Winstead confirmed there will be minimal impacts to the residents.

Abrams said the trees provide an additional buffer for the lighting between Walser Buick and the residential area and asked if they're part of Walser's landscape plan.

Markegard said they are not, as they're located in the City's right-of-way. He said the potential exists for a bridge over 494 at Nord Avenue and if it were to get built, one of the access points would be off of 80<sup>th</sup> Street Circle.

Abrams questioned the height of the trees in relation to the light standards.

Markegard replied they are very mature trees.

Carlson asked if the residents were noticed on this application.

Markegard replied yes, the properties within 500 feet of the property were noticed. He said one phone call was received from a curious resident that just wanted to find out more. No written comments were received.

No public testimony was received.

Motion was made by Busse, seconded by Abrams, and all voting aye, to approve a modification to Condition of Approval #9 in Case 9841A-98 as stated in the staff report for Walser Buick GMC at 4601 American Boulevard West, Case 9841A-14.

**7 TRANSPORTATION &  
UTILITY  
IMPROVEMENTS:  
PUBLIC HEARINGS**

No items.

**8 ORDINANCES: PUBLIC  
HEARINGS**

No items.

**9 OTHER: PUBLIC  
HEARINGS**

No items.

**10 ORGANIZATIONAL  
BUSINESS**

**10.1 City Council Policy &  
Issue Update**

- Bernhardson said Councilmember Carlson contacted him regarding the City's ordinance relating to BBQ grills on the 2<sup>nd</sup> & 3<sup>rd</sup> floor decks of condos and townhomes and referenced the note that was in the June 2<sup>nd</sup> CMI. He explained in 1991, there was a \$1 million fire that resulted from a grill on an apartment deck so an ordinance was adopted prohibiting that. He said the City's ordinance mirrors the 2006 International Fire Code, which was adopted by the State in 2007. It prohibits grills on decks of condos, townhomes, etc. Staff will check to see if this was an optional or a basic part of the Fire Code. He said the cities of Edina, Eden Prairie, Minneapolis, Eagan, and Burnsville all have that policy and repeated what's in the State Fire Code. He said staff will continue its research and will provide more information to the City Council. He requested Council members who have been contacted on this issue provide him with that contact information so those individuals can be invited to an informational meeting that will be held by the Fire Chief and the Fire Marshal. He said from a fire protection and a fire safety standpoint, there is no difference between an apartment and a condo. Fires on decks spread much more rapidly throughout a building. He said some associations include that information and some don't. He said they have the option of having permanently plumbed grills or can use electric grills. Staff will provide feedback to the Council on the State and International Fire Code.

Winstead summarized by stating charcoal and propane tanks are not allowed on decks of condos or townhomes but a plumbed, permanently installed natural gas grill would be allowed if approved by the Fire Chief.

Carlson said he would forward to the City Manager the names of the residents who contacted him.

- The City Manager reminded Council of the following dates: A study meeting on August 11 at 6 pm, a regular meeting on August 18 at 7 pm, a regular meeting on September 8 at 7 pm, a study meeting on September 15 at 6 pm, and a regular meeting on September 22 at 7 pm. He announced he will not be present for the September 18 meeting so Community Development Director Larry Lee will be the Acting City Manager for that meeting.
- Baloga said the Bloomington Historical Society is looking at the opportunity of causing the Bloomington Cemetery to become a state historic item. He asked if that would cover just the existing cemetery or the expansion.

Bernhardson said the historic designation would only apply to the initial cemetery that is basically located between the two roads. It's the old established part of the cemetery where a civil war monument is located. It doesn't cover any of the expansion. He said staff will provide a map outlining the area that might be designated as historic.

- Oleson said he stopped by the Dog Days of Summer Picnic held for City employees. He said it was a nice event and gave kudos to the Employees Advisory Committee (EAC) for hosting the picnic.

Bernhardson said the EAC also hosts the annual employee picnic in September to which the City Council is also invited. In addition, the EAC hosts an ice cream social and some popcorn events throughout the year.

- Lowman mentioned he's been receiving lots of correspondence regarding the Dwan Bluff development, which he will forward to staff. He reported the neighborhood is planning a meeting regarding this development on August 7<sup>th</sup> at 6 pm at the Creekside Community Center.

## 11 ADJOURN

Mayor adjourned the meeting at 8:13 p.m.

Barbara Clawson  
*Council Secretary*